

Middletown Zoning Board of Review July 28, 2009

The Middletown Zoning Board of Review was held on June 23, 2009 at 7:00 p.m. Present at this meeting were Chairman -Tom Silveira, Vice Chairman-Peter Van Steeden, Secretary -Lucy Levada, Tom Newman, ,- alternates-Frank Flanagan, Greg Schultz, and Michael Potter-Due to the absence of Steve MacGillivray 1st Alternate -Frank Flanagan will be the 5th voting board member Town Solicitor- Michael Miller and Zoning officer -Jack Kane and -Zoning enforcement Officer-Celeste Logotheis.

A motion was made by Peter Van Steeden and second by Tom Newman to accept the secretary’s minutes of June 23, 2009. Motion carried 5-0.

Continuances/Withdrawals

- 1. Petition of:- Christopher Bouzaid- -----August 25,2009**
- 2. Petition of:-Gudwhite----- August 25,2009**
- 3. Petition of: Duncan & Barbara Chapman----- August 25,2009**
- 4. Petition of: Bancroft Partner----- August 25,2009**
- 5. Petition of Eric &Cristina Offenbergl- A motion was made by Peter**

Van Steeden and second by Lucy Levada to withdraw without prejudice the Offenbergs' petition. Motion carried 5-0

New Cases:

1. Petition of: Konstantinos Moisiades-14 Wedgewood Rd.-Middletown, R.I.-(owner)-Konstantinos Moisiades and Sotiria M.Crea(Applicant)-for a Special Use Permit from Article 16- to allow an accessory family dwelling-unit. Said real estate is located at 14 Wedgewood Rd. And further identified as Lot 264 on Tax Assessor's Plat 114.

A motion was made by Peter Van Steeden and second by Lucy Levada to grant the petition with the condition that it stays a family dwelling and they comply with the ordinance. Petition granted 5-0

2, Petition of :Alain Hugard-Neary-115 Center Ave.-Middletown, R.I.-(owner)- for a variance from Sections 603,701,&803G- To construct a 14.8'x10.4' covered front porch with a front yard setback of 20.2' where 25' is required and a side yard setback of 1.2' where 15' is required. Said real estate is located at 115 Center Ave. And further identified as lot 307 on Tax Assessor's Plat 115SE.

A motion was made by Lucy Levada and second by Tom Newman to grant the petition as they will be extending the porch to the end of the house and will not be encroaching on anyone's property. Petition Granted 5-0

3. Petition of: Margaret F. Stepp-15 Barton Ln.-Middletown,R.I.- (owner)-Margaret F. Stepp & Jeffrey Accaputo(Applicant) -For a Variance from Sections 603, 701,803G &1601B- to construct a 20'x24' one story addition to be used as an accessory family dwelling unit with a left side yard setback of 16.5' where 20' is required and to allow a separate outside door on the front of the building. Said real estate is located at Barton Ln. And further identified as Lot 72 on Tax Assessor's Plat 111.

A Motion was made by Peter Van Steeden and second by Tom Newman to grant the Variance with the condition that it will not be used for rental purpose .and will only be used for family . Petition granted 5-0

Page 2

4. Petition Of; Margaret F. Stepp- 15 Barton Ln.-Middletown, R.I.- (owner) & Jeffrey Accaputo (applicant)for a Special Use Permit from Article 16- to allow an accessory family dwelling unit at 15 Barton Ln. And further identified as Lot 72 on Tax Assessor's Plat 111.

Exhibit # 1 ABCD shows 4 pictures of the house in question .A motion was made byPeter Van Steeden and second by Frank Flanagan with conditions that no parking on cul -de-sac, add another drive way and comply with Town Ordinance on in-law units. Petition granted 5-0

5. Petition of: Christian & Helmut Casagrande- 619 Indian Ave.-Middletown,R.I.- (owners) Christian Casagrande.(applicant) for a Variance from Sections 603, 701, & 803G- to construct a 24'x18' one story addition with a front yard setback of 32' where 40' is required. Said real estate is located at 619 Indian Ave. And further identified as Lot 72.1 on Tax Assessor's Plat 129.

A motion was made by Lucy Levada and second by Frank Flanagan to grant the petition as the relief is necessary for the enjoyment of the property. Petition Granted 5-0

6. Petition of: Bancroft Partners, LLC- Aquidneck Ave. Middletown,R.I.-by their Attorney Robert M. Silva, esq.-for a Variance from Sections 603- to re-subdivide Lots 123 & 127 such that proposed Lot A will have lot frontage of 13.03 feet where 130 feet is required and proposed Lot B will have side yard setbacks of 7.2 feet and 12.5 feet where 20 feet is required. Said real estate is located at 575 Tuckerman Ave . And further identified as Lot 123 & 127 on Tax Assessor's Plat 122.

Alternate Greg Schults will be the 5TH voting member on this petition.Town Solicitor Michael Miller has recused from this petition , Assistant City Solicitor Turner Scott will be the Solicitor on this petition .Law Office of Robert M. Silva is representing the Petitioner and Christopher Behan is representing the objectors, Lang and Jermain. This petition was first heard on March 24 2009 and for various reasons it could not be heard earlier and is now being heard tonight for continuation of the testimony.Witness for the petitioner is

Richard Lipsitz.

Exhibit#C. Richard Lipsitz professional Land Surveyor and Exhibit #B was prepared by his office and has 3 pages, Exhibit#1, shows 2 lots when Bancroft purchased the property in 2004 & 2005, Exhibit#2, shows the conditions of lot 123 and 127 as they exist today and Exhibit#3 is the plan asking for a dimensional variance. Lot 123 the green lot has 76,313 Sq ft. and was 78,100 sq ft. Lot 127 the pink lot was 98,783 and now 99,734. Sq.ft. The original plans were submitted and heard by the Planning Board on May 4, 2008 and approved subject to Zoning approval. On January 14, 2009. The plan which required variances was conditionally approved by the Planning Board. On February 11, 2009 the Zoning Board received and is reviewing were conditionally approved by the Planning Board on February 11, 2009 was good for 90 days through May 13, 2009 and was not resolved, a request was made for a further extension and approved on May 21, 2009 the conditional approval of this plan through August 9, 2009 and this approved plan is still in place.. This will be Exhibit#D. Attorney Christopher Behan submitted Exhibit#1- Planning Board decision dated February 14, 2005 approved the administrative subdivision plan referenced above dated December 2004, revised 2/1/05 subject to conditions stated in letter.. Exhibit#2- from Attorney Behan letter from Attorney Silva dated Nov. 25, 2008 to Amy I. Silva Permitting Staff Coastal Resources asking that the Bancroft Partners application for State Assent File No, 2007-03-068 Plat 122, Lot 123 at 575 Tuckerman Ave. Be withdrawn as Bancroft Partners does not intend to go further with this application..

Attorney Behan asked Mr. Lipsitz how long he has been involved with this property ?Mr. Lipsitz stated since the end of 2004. That was when the present owners purchases the property. And we were retained by their architect, Newport Collaborative, to than was that survey plans. We prepared the survey plans for the Lots, the condominium plans for the property,and the coastal resoures plans that were submitted for the single family home. Mr. Scott Rabideau from Natural Resoures Service delineated the coastal feature survey. The 11 condo units are high end units.

Attorney Silva called witness Mr. William N. Hubbard 4337 Madison Ave. NewYork his relation to ship to Bancroft Patners he is the managing member of the partnership and own the membership interest..and Back in 2005 I was a party in purchasing the 2 lots in question. My understanding was that we could build a single family house on the North lot and believed we could create 11 residences on the South side lot using the existing building. On the western portion of the site directly to the east of lot 122 where the O,Regans live, and spoke to Mrs. Lang.and also the Bagwills who live further down.

We have a letter dated July 18,2009 from Mr. John Bagwell 587 Tuckerman Ave. Stating The Declaration on Covenants Conditions, and Restrictions recorded August 30,2007,Book 1067,pages 272-275.

Exhibit #E- a letter from former Town Solicitor Vernon Gorton dated July 24,2009. Attorney Behan objected to this letter stating that Mr.

Gorton submitted an opinion on what already took place,, here with Exhibit#2 of Exhibit B and he is not here for me to crossed examined him. Town SolicitorAttorney Scott stated to the board that Exhibit#E is a letter from Attorney Gorton indicating what his opinion was as to the original subdivision, not for the coming back, but only the original subdivision. Town Solicitor Scott stated that Exhibit#F.- Is A copy of the opinion of the Law.from his office , authored by Mr. Chase with input from myself and Mr. Miller with regards to our position on subdivisions of this ilk.Exhibit#G- Current letter from the Bagwill's dated January 26,2009 indicating their support of the application for a variance relief for the resubdivision. Exhibit#H- a letter dated June 18,2008 from Sabrina and Ares Ellis.Ehibit#I-Portion of page 6 of an agreement to which the witness testified had been executed by the parties on July 26,2005. Between Bancroft Partners ,LLC. A Rhode Island Limited Liability Company between the Bagwills, O'Regan and Lang executed on July 26,2005

Meeting will continue on August 25,2009 .

Meeting adjourned 10:05 P.M.

Respectfully Submitted

Lucy R.Levada

Secretary